IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 23146 of 2007(E)

PETITIONER:

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1. KERALA ADVERTISING INDUSTRIES ASSOCIATION,ARA HOUSE NO.194, THOPPIL KADAVU, KOLLAM-12,REPRESENTED BY ITS SECRETARY, K.PRIYADARSANAN,S/O.G.K.PILLAI, AGED 39 YEARS, RESIDING AT 3, LAKESIDE APARTMENTS, THOPPILKADAVU,KOLLAM.

2. JOSE JAMES, S/O. K.JAMES, AGED 48 YEARS, IMPRINT ADVERTISING SERVICE, MEDAYIL JUNCTION, KOLLAM -12.

BY ADV. SRI.R.SATISH KUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, LOCAL SELF GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. CORPORATION OF KOLLAM, REPRESENTED BY ITS SECRETARY, OFFICE OF THE KOLLAM CORPORATION, KOLLAM.

3. THE SECRETARY, KOLLAM CORPORATIAON, OFFICE OF THE KOLLAM CORPORATION, KOLLAM.

BY GOVT.PLEADER SRI.BASANTH BALAJI
ADV.SRI.M.K.CHANDRAMOHANDAS, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 23146 OF 2007 E

Dated this the 31st July, 2007

JUDGMENT

Petitioners are the Kerala Advertising Industries Association and another, who is alleged to be in the business of advertisement. Ext.P1 Gazette Notification issued by the Government fixes the rate at which tax on advertisement is to be levied. Thereafter, Government issued Ext.P2.. Ext.P3 relates to the Kozhikode Corporation. Ext.P4 relates to levy of tax on advertisement in the Thrissur District. Ext.P5 relates to Cochin Corporation. Ext.P6 relates to Thiruvananthapuram. Ext.P7 is the Notification issued by the third respondent Secretary under Section 231(2) of the Kerala Municiplaity Act calling for objections for revision of the tax. Ext.P8 is a Notification issued on 21.6.2007 by the Kollam Corporation stating that there are unauthorised advertisement Boards and those Boards shall be removed within seven days of the Notification. It is the further case of the petitioners that when the petitioners made requests

for renewal of licence on payment of fee, the same was refused saying that they have not paid the proposed tax. Ext.P9 is the list of Members of first petitioner Association. Ext.P10 is the objection against Ext.P7. Second petitioner preferred Ext.P11 representation. Exts.P12 and 13 are receipts for the objections.

2. Petitioners have approached this Court seeking a writ of certiorari to quash Ext.P8 and for a direction to dispose of Exts.P10 and P11 objections. There is a further direction sought to respondents 2 and 3 not to remove the hoardings and other advertisement boards displayed by the Members of first petitioner shown in Ext.P9 list and that of second petitioner till the revised rates are coming into force by publishing under Section 232 of the Kerala Municipality Act by the third respondent. There is also a prayer sought to direct respondents 2 and 3 to accept renewal licence fee and tax on advertisement on existing rate from the members of first petitioner as shown in Ext.P9 list and also from the second petitioner.

3. I heard the learned counsel appearing for the petitioners

and also the learned standing counsel appearing for the respondent Corporation. Learned counsel for the respondent Corporation would point out that the matter is governed by Sections 271 and 272 of the Kerala Municipality Act. Under Section 272, a person wishing to put up an advertisement, has to obtain permission from the Secretary of the Municipality. He would then point out Ext.P8 and contend that the purport of Ext.P8 is to remove those advertisement boards alleged to have been put up which are unauthorised in the sense that they have been put up without obtaining permit from the Municipality. He would, of course, point out that Ext.P7 Notification was published. He would submit that persons who have put up advertisements on the strength of valid permit granted by the Municipality will not be affected by Ext.P8. Counsel for petitioners points out that the members of the first petitioner Association were already having licences upto 1.4.2007 and they have applied for renewal of the licences and they are also prepared to pay the advertisement tax as it exists as on the date

of the applications for renewal. In such circumstances, the Writ Petition is disposed of as follows:

As far as advertisement boards which have been put up without obtaining permission from the respondent Corporation, certainly the respondent Corporation is entitled to get the same removed in accordance with law. I do not think that the petitioners can have any grievance against that. But, as far as those members of the first petitioner Association and the second petitioner are concerned, if they had valid licences upto 1.4.2007 and if they have made applications for renewal, their applications will be considered and a decision taken in accordance with law.

K. M. JOSEPH, JUDGE

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